

**From:** ram@wt6.usdoj.gov@inetgw  
**To:** Microsoft ATR  
**Date:** 1/28/02 11:49pm  
**Subject:** Microsoft Settlement

January 28, 2002

Renata B. Hesse  
Antitrust Division  
U.S. Department of Justice  
601 D Street NW  
Suite 1200  
Washington, DC 20530-0001

Dear Ms. Hesse:

Please register my emphatic opposition to the subject Proposed Final Judgement (PFJ) [in re the conjoined Civil Actions No. 98-1232 (CKK) and 98-1233 (CKK), collectively termed the Microsoft Antitrust Case]. My reasons for opposing this PFJ are based upon review and thoughtful consideration of the following:

- a) Microsoft's extensive and consistent record of gross anticompetitive abuses in the software industry that gravely harmed competitors, eliminated consumer freedom of choice, and erected illegal barriers to innovation by competitors - abuses for which Microsoft has been adjudicated to be guilty of violations of the Sherman Antitrust Act in this Case - which Microsoft will gladly continue;
- b) the provisions of the PFJ, which appear on the surface to offer substantive remedies but in fact, upon careful reading, provide no effective or enforceable restrictions to prevent Microsoft from continuing its anticompetitive practices to extend its monopoly illegally - precisely the offense that requires remedy;
- c) the glaring omissions of the PFJ, which is blind to current conditions in the software industry and Microsoft's continuing predatory tactics there and in contiguous markets such as Internet enabled ecommerce, mass media delivery and digital rights management, and definition of worldwide network standards, and which further offers no forward looking constraints to prevent Microsoft from proliferating such oppressions of suppliers, customers, competitors, and ultimately consumers and fair markets both within the US and internationally.

Microsoft has proven that it is willing to use any means or pretense to avoid or circumvent restrictions on its practices (see the earlier Consent Decree). Microsoft is like a twice-convicted burglar proposing to bargain for parole by promising not to commit burglary again - except if (i) the front door is open, (ii) a window is unlocked, or (iii) the

back door can be jimmied open easily. Microsoft can't be trusted to abide by any restrictions on its business acts in good faith. The Judgement of the Court should therefore be in imperative terms without any loopholes Microsoft can use to subvert the Court's intent. Unfortunately, the PFJ is as far from such a clear standard as Microsoft might wish. No wonder Microsoft agreed to this.

Far from offering even minimally adequate remedies, the PFJ is a perverse gift to Microsoft in that it would enshrine in a legal settlement the permission to continue, extend, and expand Microsoft's predatory actions and anticompetitive behaviors. For every declaration of prohibited future conduct or requirements to treat other market players and consumers fairly there are entire paragraphs and clauses, definitions and exclusions, which Microsoft can and predictably will employ to subvert both the letter and intent of these supposed remedies.

Furthermore, the face-to-face contact between Steve Ballmer (he is Microsoft's CEO and President) and Dick Cheney (Vice President of the US) as negotiations were ongoing to draft the PFJ but not reported by either party in violation of the Tunney Act, deserve censure of both sides by the Court, if not appointment of a Special Prosecutor to investigate political and administrative corruption.

Don't sell the software industry down the river, allow a monomaniacal company to unfairly wield its monopoly to take over several additional sectors of the economy, destabilize international standards for interoperability in ecommerce and communications, and continue to prey upon businesses, marketplaces, and consumers worldwide. Reject this PFJ. Write a fitting Judgement, with teeth!

Respectfully submitted,

Robert A. Munro  
U.S. Citizen